

**BOARD OF WATER AND SOIL RESOURCES  
520 LAFAYETTE ROAD N.  
ST. PAUL, MINNESOTA 55155  
WEDNESDAY, JANUARY 22, 2014**

**BOARD MEMBERS PRESENT:**

Joe Collins, Jack Ditmore, Chris Elvrum, MDH; Christy Jo Fogarty, Sandy Hooker, Paul Langseth, Tom Landwehr, DNR; Tom Loveall, Terry McDill, MPCA; Brian Napstad, Judy Ohly, Tom Schulz, Rob Sip, MDA; Faye Sleeper, MES; Steve Sunderland, Gene Tiedemann, Gerald VanAmburg

**STAFF PRESENT:**

Mary Jo Anderson, Brett Arne, Angie Becker Kudelka, Steve Christopher, Travis Germundson, Tim Gillette, Celi Haga, John Jaschke, Al Kean, Melissa Lewis, Mary Peterson, Dan Shaw, Ron Shelito, Sarah Strommen, Dave Weirens, Marcy Westrick

**OTHERS PRESENT:**

Ray Bohn, MAWD

**BWSR Meeting Minutes**  
**January 22, 2014**  
**Page Two**

**Chair Napstad called the meeting to order at 9:03 AM**

**PLEDGE OF ALLEGIANCE**

**\*\* 14-01 ADOPTION OF AGENDA** – Moved by Paul Langseth, seconded by Sandy Hooker, to approve the agenda as presented. *Motion passed on a voice vote.*

**\*\* 14-02 MINUTES OF DECEMBER 18, 2013 BOARD MEETING** - Moved by Tom Schulz, seconded by Christy Jo Fogarty, to approve the minutes of December 18, 2013, as circulated. *Motion passed on a voice vote.*

**CONFLICT OF INTEREST DECLARATION** - Chair Napstad explained that the conflict of interest declaration process is being used today on three agenda items: FY2014 Clean Water Fund Competitive Grants; 2014 Soil Erosion & Drainage Law Compliance Funding Recommendation; and FY2014-2015 Cooperative Weed Management Area Grants.

Chair Napstad read the statement: *“A conflict of interest, whether actual, potential, or perceived, occurs when someone in a position of trust has competing professional or personal interests and these competing interests make it difficult to fulfill professional duties impartially. At this time, members are requested to declare conflicts of interest they may have regarding today’s business.”*

**INTRODUCTION OF NEW BWSR EMPLOYEES**

- Brett Arne, Board Conservationist, Fergus Falls
- Celi Haga, Communications Coordinator, St. Paul

Chair Napstad welcomed Brett and Celi to BWSR.

Chair Napstad introduced and welcomed Terry McDill, new MPCA alternate member for Rebecca Flood.

**REPORTS**

**Chair’s Report** – Brian Napstad reported that he attended the Grants Program & Policy Committee meeting; he also attended the Public Relations, Oversight and Strategic Planning Committee meeting last night. Chair Napstad attended the Northeast Wetland Mitigation meeting last week in Chisholm; discussion included wetland credits. The EQB met the same day as Chair Napstad attended the wetland mitigation meeting. Tom Landwehr attended the EQB meeting and reported that the EQB discussed silica sand issues.

**Administrative Advisory Committee (AAC)** – Chair Napstad reported that the AAC met this morning; items discussed included the BWSR updated staffing plan; and other items on the agenda later today. Chair Napstad stated that BWSR currently has six openings for member appointments. John Jaschke is in communication with the Governor’s office; optimistic that appointments will be made soon.

**Executive Director’s Report** – John Jaschke briefly commented on the BWSR updated staffing plan. John attended the DNR Roundtable on January 5-6. John plans to attend the LGU

**BWSR Meeting Minutes**  
**January 22, 2014**  
**Page Three**

Roundtable meeting on January 29. John reported that the 2014 Legislative process is starting; this is not a budget year in the legislative session. John and Sarah Strommen are working on the 'Unsession' proposals. The bonding bill released by the Governor unfortunately did not include RIM; BWSR is working with stakeholders and other agencies to pursue this in the legislative process.

John reported that BWSR received a resolution on January 21, 2014 from Polk County requesting that the matter regarding the distribution of managers for the Middle-Snake-Tamarac Rivers Watershed District which the County petitioned be tabled until March 2014. This item is on the agenda later today. John reviewed items in board members' packets.

**Dispute Resolution Committee (DRC)** – Travis Germundson reported that there are 11 pending appeals; there have been no new appeals since the last report on December 18, 2013.

**Grants Program and Policy Committee** – Paul Langseth reported that the Grants Program and Policy Committee has a number of recommendations on the agenda later today. The Grants Program and Policy Committee will meet again in March.

**Public Relations, Oversight & Strategic Planning Committee** – Jack Ditmore reported that the Public Relations, Oversight & Strategic Planning (PROSP) Committee met last night; recommendations are on the agenda later today. The PROSP Committee will meet in March, April, May and June.

**RIM Reserve Management Planning Committee** - John Jaschke reported that Sarah Strommen met with the Department of Revenue regarding the RIM easement property valuation rates. RIM easements are riparian and exempt from the new legislation. BWSR issued guidance for SWCDs to apply; the easement document will now state the riparian status. BWSR and others will pursue legislation to correct this.

**Drainage Work Group** – Tom Loveall reported that the Drainage Work Group met on January 9, 2014; discussion included the One Watershed One Plan; the public drainage ditch buffer strip reporting; and Section 103E.015 considerations before drainage work is done. Al Kean reported that he attended the Red River Basin Summit Conference, discussion included drainage policy in Minnesota, North Dakota and Manitoba. The next meeting of the Drainage Work Group is scheduled for February 13, 2014. Discussion followed.

Joe Collins entered the meeting at 9:55 AM.

**COMMITTEE RECOMMENDATIONS**

***Northern Region Committee***

**Redistribution of Manager Positions for the Middle-Snake-Tamarac Rivers Watershed District** – Chair Napstad and Gene Tiedemann recused themselves from all discussion, deliberation, and voting on this matter. Gerald Van Amburg reported that on January 21, 2014, BWSR received a resolution passed by the Polk County Board requesting that the matter regarding the distribution of managers for the Middle-Snake-Tamarac Rivers Watershed District ("District") which the County petitioned be tabled until March 2014.

**BWSR Meeting Minutes**  
**January 22, 2014**  
**Page Four**

Gerald reported that BWSR staff, in consultation with the Attorney General's Office, are recommending that the Board reopen the record in the matter regarding the distribution of managers for Middle-Snake-Tamarac Rivers Watershed District ("District") at the upcoming meeting. Jim Stengrim wrote a letter to BWSR dated January 13, 2014, which is potentially relevant information. Mr. Stengrim states that in a letter submitted to BWSR, Roger Hille from the District inaccurately describes litigation between the District and Mr. Stengrim. This letter from Roger Hille is Exhibit 19 in the record. The litigation between the District and Mr. Stengrim is described in a Court of Appeals opinion issued in 2012, which is also part of the potentially relevant information. Board members requested copies of these documents; staff will provide copies of these documents to board members.

Gerald stated that the BWSR Administrative Advisory Committee met on January 22, 2014 and recommends the following action:

*Resolution:* that pursuant to Minn. Stat. § 13.04, subd. 4, the Board reopens the record to receive (1) the letter from Jim Stengrim, dated January 13, 2014, and (2) the Court of Appeals decision entitled *Middle-Snake-Tamarac Rivers Watershed District v. Stengrim*, dated January 17, 2012. In addition, the resolution related to this matter adopted by the Polk County Board on January 21, 2014 and other relevant information will be entered into evidence. Furthermore, the Board remands this matter to the Northern Region Committee to hold a public meeting to accept additional testimony and evidence.

**\*\***  
**14-03** Moved by Gerald Van Amburg, seconded by Jack Ditmore to approve the resolution as presented. John Jaschke suggested minor edits. Gerald VanAmburg and Jack Ditmore agreed to the edits. Travis Germundson clarified the relevance of the referenced documents. *Motion passed on a voice vote.*

**Bois de Sioux Watershed District Plan Amendment** – Gerald VanAmburg reported that on October 2, 2013, BWSR received a petition to amend the Bois de Sioux Watershed District's Overall Plan pursuant to M.S.103D.411. The petition proposes to amend the District's Plan to clarify the rational, basis and means to achieve the retention goals of the District via impoundments. The amendment summarizes the District's statutory authority, and planning work performed on a sub-watershed basis. A copy of the petitioned amendment was sent to all counties affected by the District, the DNR, all municipalities of the District and the SWCDs affected by the District. A Notice of Filing of the Plan Amendment has been published in local papers. The notice provided an invitation to submit comments or a request for a hearing if opposed to the amendment by February 1, 2014. The Northern Region Committee met on January 8, 2014, reviewed the information, and unanimously voted to recommend conditional approval. The Northern Region Committee will present their recommendation to the full Board at the March 26, 2014 meeting.

***Southern Region Committee***

**Buffalo Creek Watershed District Public Hearing Request** – Paul Langseth reported that the Buffalo Creek Watershed District (BCWD) filed a proposed Revised Watershed Management Plan (Plan) dated November 1, 2013 with the Board of Water and Soil Resources (Board) on December 9, 2013, pursuant to M.S. Section 103D.405. A copy of the draft Plan was sent to

**BWSR Meeting Minutes**  
**January 22, 2014**  
**Page Five**

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14-04

local units of government for their review pursuant to M.S. Section 103D.405. The Board must give notice and hold a hearing on the proposed Plan within 45 days after receiving the Department of Natural Resources' recommendation on the revised Plan pursuant to M.S. Section 103D.405 Subd.5 (a). The Southern Region Committee requests the Executive Director set a date, time, and location and provide proper notice for public hearing on the revised BCWD Plan. Moved by Paul Langseth, seconded by Sandy Hooker, that the Board hereby orders a public hearing be held within 45 days after receiving the DNR's recommendation on the revised Plan for the BCWD to be presided over by the Southern Region Committee at a date and location to be determined by the Executive Director. *Motion passed on a voice vote.*

Chris Elvrum entered the meeting at 10:20 AM.

Chair Napstad stated that board members have submitted their completed Conflict of Interest Declaration forms; the documents will be filed for the grant decision items.

***Grants Program & Policy Committee***

**FY2014 Clean Water Fund Competitive Grants** – Dave Weirens and Marcey Westrick distributed a graph of the competitive grant distribution by BWSR region; a map of RIM Reserve riparian buffer conservation easements funded through Clean Water Funds (CWF); and a map of the FY2014 total recommended funding for all allocations including shared services is \$14,540,918. Dave provided background information and reported that a total of 296 applications were received requesting over \$52 million. BWSR staff conducted multiple processes to review and score applications, all of them involving staff from other agencies. The BWSR Senior Management Team reviewed the proposed FY2014 CWF competitive grant allocations on January 6, 2014; the Grants Program and Policy Committee met on January 10, 2014, reviewed the proposals presented by staff and recommend approval. Marcey presented an overview of the Committee's recommendations to applications submitted in the following categories: Projects and Practices; Accelerated Implementation; Accelerated Implementation-Shared Services and Community Partners Conservation Program. Discussion followed.

Tom Landwehr suggested discussions before the next round of allocations as to how to redirect and target allocations without relying solely on individual project scoring. Paul Langseth stated that the Committee and staff, DNR, MDA, PCA, MDH, looks at the applications and legislative language; the matrix and scoring as presented and recommended. Paul stated that the funding is not for a geographical purpose; it's to apply funds to protect and improve water quality in communities, connecting proposals to priorities from local water management plans. Christy Jo Fogarty stated that the Committee reviewed high quality projects statewide, not metro vs. outstate. Tom Landwehr stated that consideration is needed that benefits many, not just a project area, allocations are to achieve best outcomes. John stated that we do our best, using an interagency team of experts, to identify those projects that will be the most effective. Marcey stated for information, that MDH scores the well sealing grants. Dave presented the Resolution as recommended by the Grants Program and Policy Committee:

- 1) Approve allocations to implement the FY 2014 CWF Competitive Grant Program according to the attached funding recommendation spreadsheets and the attached scoring results and

**BWSR Meeting Minutes**  
**January 22, 2014**  
**Page Six**

funding recommendations document for the following programs and recommended allocation amounts shown below:

<u>Grant Program</u>	<u>Allocated Funds</u>
A. Projects and Practices Grants	\$8,417,364
B. Accelerated Implementation Grants	\$2,206,956
C. Accelerated Implementation Grants-Shared Services	\$2,000,000
D. Community Partners Conservation Program Grants	\$862,500
E. MDH Well Sealing Grants	\$288,988

- 2) Authorizes staff to forward a recommendation to the MDA to allocate \$0 of Agricultural BMP Loan Program funds through BWSR-led competitive grant making processes,
- 3) Authorizes staff to use the proportion of the amount leveraged or match as a tiebreaker for equal project scores to award available funds, and
- 4) Authorizes staff to:
  - A. approve project work plans,
  - B. enter into grant agreements consistent with this resolution and Legislative appropriations,
  - C. assign funds, noted in (1) that may become available, to partially funded projects due to a lack of funds, or to unfunded projects, in rank order, if funded projects are withdrawn, do not receive work plan approval by March 1, 2014 unless extended for cause, or are modified to reduce the state funding needed to accomplish the project.

\*\* Moved by Paul Langseth, seconded by Steve Sunderland, to approve the FY2014 Clean Water Fund Competitive Grant allocations as recommended by the Grants Program and Policy Committee. Discussion followed. Chair Napstad stated that all members are eligible to vote.

14-05 Joe Collins abstained from voting. *Motion passed on a voice vote.*

Chair Napstad called for a break in the meeting at 10:55 AM. The meeting reconvened at 11:10 AM.

**FY2014 Soil Erosion and Drainage Law Compliance Grants** – Al Kean reported that the Soil Erosion and Drainage Law Compliance Program was instituted in response to an appropriation of the Legislature. Tim Gillette reported that BWSR staff created a Request for Proposals (RFP) that the Board approved for distribution in October 2013. There were 27 applications for the three subprograms; of those, two were ineligible, and two were unfunded due to low scores. There are 23 applications that ranked high enough to be funded. The Grants Program and Policy Committee met on January 10, 2014; reviewed the FY2014 Soil Erosion and Drainage Law Compliance Grant allocations and recommends:

- 1) Approval of allocations to implement the FY2014 CWF Soil Erosion and Drainage Law Compliance Grant Program according to the funding recommendation spreadsheet and the attached scoring results and funding recommendations document:

<u>Grant Program</u>	<u>Allocated Funds</u>
A. Subprogram 1 – Soil Erosion	\$ 276,489.00
B. Subprogram 2 – Drainage Ditch Inventory & Inspection	\$ 777,609.00
C. Subprogram 3 – Redetermination of Benefits and Drainage Ditch Buffer Strips	\$ 0.00
Total Soil Erosion and Drainage Law Compliance Allocation	<u>\$1,054,098.00</u>

**BWSR Meeting Minutes**  
**January 22, 2014**  
**Page Seven**

- 2) Authorizes staff to: a) approve project work plans; b) enter into grant agreements consistent with this resolution and Legislative appropriations.

**\*\*** Moved by Paul Langseth, seconded by Faye Sleeper, to approve the FY2014 Soil Erosion and  
**14-06** Drainage Law Compliance Grant allocations as recommended by the Grants Program and Policy Committee. Discussion followed. Tom Loveall abstained from voting. *Motion passed on a voice vote.*

**Cooperative Weed Management Area Grants** - Dan Shaw reported that 22 applications were submitted requesting a total of \$317,000 for the Cooperative Weed Management Area (CWMA) Grants, with \$200,000 available funding. BWSR staff determined if applications met the eligibility requirements. The CWMA Advisory Team (BWSR, MDA, MNDOT, DNR, MES) met on December 19, 2013 to review the applications and make recommendations. The Grants Program and Policy Committee recommends authorization of \$200,000 of State Conservation Cost- Share funds for 14 FY2014-15 Cooperative Weed Management Area Grants.

**\*\*** Moved by Paul Langseth, seconded by Christy Jo Fogarty, to authorize the Cooperative Weed  
**14-07** Management Area (CWMA) Grants be awarded to the 14 CWMA applications as recommended by the Grants Program and Policy Committee. All board members are eligible to vote. *Motion passed on a voice vote.*

Faye Sleeper recused herself from all discussion, deliberation, and voting on the following item:

**Request for Proposals to Update the Public Drainage Manual** – Al Kean reported that the Clean Water Funds appropriated to BWSR in 2013 allocated grants to LGUs to update the *Minnesota Public Drainage Manual and the Minnesota Public Drainage Law Overview for Decision Makers* and to provide outreach to users. The Grants Program and Policy Committee met on January 10, 2014, reviewed the FY2014 Clean Water Fund Competitive Update of the Minnesota Public Drainage Manual as developed by staff and recommends approval.

**\*\*** Moved by Paul Langseth, seconded by Rob Sip, to authorize staff to finalize, distribute and  
promote a Request for Proposals (RFP) to Update the Public Drainage Manual project consistent with the provisions of appropriations enacted in 2013, Minn. Stat. 103B.3369.  
**14-08** Discussion followed. *Motion passed on a voice vote.*

**Public Relations, Oversight, and Strategic Planning Committee**

**2014 Performance Review and Assistance Program (PRAP) Report to the Legislature –**

Don Buckhout reported that each year BWSR is required to prepare and submit to the Legislature by February 1<sup>st</sup> a report describing the performance of the local water management entities for which BWSR has oversight responsibility. Don provided a brief overview of the 2014 PRAP Report, as prepared by staff. The Public Relations, Oversight and Strategic Planning Committee met on January 21, reviewed the 2014 PRAP Report and recommends approval. Moved by Jack Ditmore, seconded by Judy Ohly, to approve the PRAP Report to the  
**\*\*** Minnesota Legislature for transmittal to the Legislature and publication on the Board's website with allowance for any minor editing modifications necessary for publication. Discussion followed. *Motion passed on a voice vote.*  
**14-09**

## **NEW BUSINESS**

**Vice-Chair Nomination** – John Jaschke reported that BWSR Bylaws state: “The Vice-Chair shall be elected to a two-year term from the regular membership of the BWSR. The Vice-Chair shall be elected by majority vote at the first regularly scheduled meeting of every EVEN calendar year.” Chair Napstad opened nominations. Paul Langseth nominated Gerald VanAmburg. Chair Napstad declared Gerald VanAmburg had been placed in nomination. Chair Napstad made three additional calls for nominations. No additional nominations were made. Chair Napstad declared nominations closed. Upon the vote being taken, Gerald VanAmburg received a unanimous vote. Congratulations to Gerald VanAmburg as Vice-Chair of BWSR.

## **AGENCY REPORTS**

**Minnesota Department of Agriculture (MDA)** – Rob Sip reported that MDA has a web-link for the MDA Ag BMP Loan Program, he will provide that link to board members.

**Minnesota Department of Natural Resources (DNR)** – Tom Landwehr reported that the the first public meeting on PolyMet Mining's proposed copper-nickel mine was held in Duluth with 1300 people in attendance; good discussion, respectful meeting. The second of three public meetings will be held in Aurora tonight. The meetings are designed for the public to learn more about the environmental effects of the proposed NorthMet mine project in northeastern Minnesota near Hoyt Lakes and Babbitt. The final public meeting about this project will be held in St. Paul on January 28. There is a 90-day public comment period, comments will be taken through March 13.

Tom Landwehr reported the legislature created groundwater management areas (GWMA) as a tool for the DNR to address difficult groundwater-related resource challenges. DNR is developing three pilot groundwater management area plans, they will be launched at different times, located in the North and East Metro, the Straight River area, and the Bonanza Valley. The purpose of the three pilot planning projects is to learn how to effectively create and establish GWMA's in other places facing groundwater management challenges.

Joe Collins stated that gray water is an issue that needs to be addressed. Gray water is reusable water for irrigation, wastewater from sinks, floor drains, or washing machines. Discussion followed. Chris Elvrum reported that the State of Minnesota does not have guidelines for use of gray water, there is a need to govern reuse. MDH is working with PCA, DNR, and MDA revising the plumbing code, a charter and set of goals are in place. Tom Landwehr stated that the groundwater management process needs to be addressed so an efficient delivery system can be put in place.

**Minnesota Extension Service (MES)** – Faye Sleeper reported that the Water Resources Center (WRC) has been under the leadership of co-directors. The interim Dean has changed the model. Deb Swackhammer is retiring, the position is posted nationwide, the WRC will be in a transition-state for a couple years.

## **ADVISORY COMMENTS**

**Minnesota Association of Townships (MAT)** – Sandy Hooker reported that MAT is planning for the legislative session. MAT's newly elected President is Reno Wells from Cass County.



**BWSR Meeting Minutes**  
**January 22, 2014**  
**Page Nine**

**Minnesota Association of Watershed Districts** – Ray Bohn thanked board members for attending the MAWD annual meeting; good attendance at technical workshops. MAWD appreciates assistance on the LGU Roundtable; need to determine appropriate roles. MAWD's Legislative Breakfast & Day at the Capitol will be held March 19-20; an EIS symposium will be held in conjunction with this, legislators and board members are invited to attend. Ray stated that MAWD appreciates BWSR's support on the One Watershed One Plan. Ray thanked John Jaschke, Sarah Strommen, Doug Thomas, and BWSR staff for the good work they do.

**UPCOMING MEETINGS**

- Next BWSR Board Meeting – March 26, 2014, in St. Paul
- Public Relations, Oversight & Strategic Planning Committee Meeting – March 25 evening, in St. Paul

\*\* Moved by Tom Loveall, seconded by Chris Elvrum, to adjourn the meeting at 12:30 PM.  
14-10 *Motion passed on a voice vote.*

Respectfully submitted,



Brian Napstad  
Chair